

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL REVISION APPLICATION NO. 18 OF 2007

Adarsh Home Developers.

... Applicant.

V/s.

Gold Coin Builders and others.

... Respondents.

Office Notes,Office	:
Memoranda of Coram,	:
appearnaces,Courts's	:
orders or directions	:
and Registrar's orders. :	

Court's or Judge's orders

Birendra Saraf for the applicant.

V.A.Thorat, senior counsel with Sanjay Jain
i/b. L.D.Shah & Co. for respondent No.1.

Pramod N. Patil for respondent Nos.2 to 9.

CORAM: A.M.KHANWILKAR, J.

DATED: 25th January 2007.

P.C.:

. Heard counsel for the parties.

2. The applicant may be justified in submitting that the trial Court has not adverted to the basic issue while allowing the application of respondent-plaintiff. Firstly, that suit was dismissed under order 9 rule 8 and not under the provisions of order 9 rule 3 of C.P.C. as was sought to be contended on behalf of the plaintiffs in the affidavit filed before the trial Court. Secondly, there

is no finding recorded by the trial Court on the issue of sufficient cause made out by the plaintiff for non-appearance on 17th August 2006.

3. However, on going through the reasons recorded in the impugned judgment, it appears to me that the trial court has shown indulgence to the plaintiff in the interest of justice; and because no prejudice would be caused to the applicant-defendant. It is not necessary to interfere with every error committed by the lower court, in revisional jurisdiction, unless the decision is manifestly wrong or in excess of jurisdiction. The final order passed by the trial Court, if can be broadly upheld on some other reason other than the one canvassed before this court; in that case, this Court will be loathe to interfere with the impugned order in exercise of revisional jurisdiction.

4. Accordingly, while disposing of this revision application, to bring quietus to the controversy, respondent-plaintiff was told to compensate the applicant-defendant on account of restoration of suit and inconvenience caused to the defendant to remain present before the Court on 17th August 2006. The

respondent- plaintiff has accepted this suggestion and is inclined to pay sum of Rs.5,000/- to the applicant- defendant No.10, who has approached this Court by way of present revision application. Costs be paid within two weeks from today.

5. Subject to above, revision application is disposed of.

(A.M.KHANWILKAR, J.)